



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

PKC:DAS/HLJ
F.#2010R00212

*271 Cadman Plaza East
Brooklyn, New York 11201*

April 9, 2012

BY ECF

Honorable Edward R. Korman
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Joseph Yannai
Criminal Docket No. 10-594 (S-1)(ERK)

Dear Judge Korman:

On March 13, 2012, the defendant submitted a motion for a new trial pursuant to Federal Rule of Criminal Procedure 33. Among other claims, the defendant asserts that his medical records demonstrate that he did not purposefully absent himself from the trial when he was hospitalized during jury deliberations. In order to adequately respond to this claim, the government requires access to the relevant medical records. To the extent that the defendant previously held any privilege or other right to privacy with respect to these records, he has waived such protections by placing them at issue in his Rule 33 motion.

The government has therefore enclosed three subpoenas to Northern Westchester Hospital, where the defendant was hospitalized after his arrest; White Plains Hospital, where the defendant was hospitalized during the trial; and Dr. Jeffrey Shapiro, who treated the defendant between the first hospitalization and the second hospitalization. Without these subpoenas, the government will be forced to rely only upon those records which the defendant has chosen to present as part of his Rule 33 motion -- records which may be incomplete or otherwise misleading.

The government therefore respectfully requests that the Court execute the enclosed subpoenas. The government further

respectfully requests permission to submit a proposed briefing schedule for a response to the Rule 33 motion after the medical providers have responded to the subpoenas.

Respectfully Submitted,

LORETTA E. LYNCH
UNITED STATES ATTORNEY

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cc: Clerk of the Court (ERK)
Georgia J. Hinde, Esq.